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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,391	07/23/2003	Ronald G. Dusterhoft	980306UIR1	7884

7590 11/28/2005

Peter V. Schroeder
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EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Response to Amendment

1. The reply filed on 11/7/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): applicant has submitted a status listing, as required by the previous notice (mailed 10/18/2005) however the status listing submitted on 11/7/05 does not comply with 37 CFR 1.173(c) and 37CFR 1.173(d):

(c) *Status of claims and support for claim changes . Whenever there is an amendment to the claims pursuant to paragraph (b) of this section, there must also be supplied, on pages separate from the pages containing the changes, the status (i.e., pending or canceled), as of the date of the amendment, of **all patent claims and of all added claims**, and an explanation of the support in the disclosure of the patent for the changes made to the claims. (emphasis added).*

(d) *Changes shown by markings . Any changes **relative to the patent being reissued** which are made to the specification, **including the claims**, upon filing, **or by an amendment paper** in the reissue application, must include the following markings:*

- (1) *The matter to be omitted by reissue must be enclosed in brackets; and*
- (2) *The matter to be added by reissue must be underlined, except for amendments submitted on compact discs*

See also MPEP 1453:

Pursuant to 37 CFR 1.173(c), each amendment submitted must set forth the status of all patent claims and all added claims as of the date of the submission. The status to be set forth is whether the claim is pending or canceled. The failure to submit the claim status will generally result in a notification to applicant that the amendment prior to final rejection is not completely responsive (see 37 CFR 1.135(c)). Such an amendment after final rejection will not be entered.

Also pursuant to 37 CFR 1.173(c), each claim amendment must be accompanied by an explanation of the support in the disclosure of the patent for the amendment (i.e., support for all changes made in the claim(s), whether insertions or deletions). The failure to submit an explanation will generally result in a notification to applicant that the amendment prior to final rejection is not completely responsive (see 37 CFR 1.135(c)). Such an amendment after final rejection will not be entered.

Art Unit: 3673

It is noted that the status listing submitted on 11/7/05 lists claims 18-36 as "original and pending"; but fails to list the status for claims 1-17 as required by 37CFR 1.173(c); calling into question whether those claims are still pending. It is further noted that claims 1-21 are the only "original" patent claims.

2. In the letter mailed 10/18/2005, Examiner failed to notify applicant of the proper format for new claims in reissue applications as required by 37 CFR 1.173(d). The amendment submitted 11/7/05 (and 10/5/05) is not in the proper form, which requires all changes relative to the patent to have markings. This requires all new claims to be underlined, whenever they are presented in a paper, regardless of whether they are amended, or whether they were presented earlier. See MPEP 1453:

Amendment of New Claims

An amendment of a "new claim" (i.e., a claim not found in the patent, that was previously presented in the reissue application) must be done by presenting the amended "new claim" containing the amendatory material, and completely underlining the claim. The presentation cannot contain any bracketing or other indication of what was in the previous version of the claim. This is because all changes in the reissue are made vis-à-vis the original patent, and not in comparison to the prior amendment. Although the presentation of the amended claim does not contain any indication of what is changed from the previous version of the claim, applicant must point out what is changed in the "Remarks" portion of the amendment.

Any claim which was added in reissue (i.e. not one of original patent claims 1-21) represents a change relative to the patent, and it must be underlined, regardless of whether it was "amended" by the most recent amendment.


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See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon, Tu, Th: 530-400; Fri: telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Kreck
Primary Examiner
Art Unit 3673

11/21/2005